AF/2700
2155

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: **MICHAEL WAYNE BROWN**	§	Attorney Docket No. **AUS000047US1**
Serial No.: **09/583,943**	§	Examiner: **NATALIE PASS**
Filed: **May 31, 2000**	§	Art Unit: **2155**
For: **BALANCING THE COMPREHENSIVE HEALTH OF A USER**	§	

REPLY BRIEF UNDER 37 CFR § 1.192

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Reply Brief is submitted in triplicate in response to the Examiner's Answer dated January 30, 2004. No fee is believed is required by this amendment; however, in the event any additional fees are required, please charge any such fee to **IBM Corporation Deposit Account Number 09-0447**. Please amend the above-identified application as indicated below.

CERTIFICATE OF MAILING
under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450** on March 30, 2004.

SHENISE RAMDEEN
Type Name of Person Signing

Shenise Ramdeen
Signature of Person Signing

ARGUMENTS

This reply brief responds to the arguments presented within the Examiner's Answer dated January 30, 2004. In the Answer, the Examiner has addresses several of Appellants' arguments with respect to a lack of teaching or suggestion of the invention in the prior art by citing specific sections of the *Trudeau* reference as showing or suggesting such elements. Appellant's have reviewed the reference and the Examiner's reasoning and arguments within the Answer, and have recognized several deficiencies in the conclusions drawn by the Examiner with regard to such teachings reading on elements of Appellant's claims.

Specifically, with respect to the Examiner's Answer, the Examiner has failed to specify with any particularity or respond to Appellants traversal of the position that the cited references show or suggest the step of:

> "*determining a priority level at which sufficient allowances are available for each of said plurality of actions in view of said designated allowances, wherein said designated allowances includes at least one type of allowance from among time allowances, financial allowances, and health allowances*" (exemplary claim 1)

On page 6 of the Answer, the Examiner explicitly admits that the *Raymond* reference fails to disclose this element. On page 7 of the Answer, the Examiner argues that *Trudeau* shows or suggests this element. However, while Appellants have traversed and argued against these grounds of rejection in our Appeal Brief (see Appeal Brief pages 4-7), the Examiner's response to Appellants' arguments (Examiner's Answer, pages 21-26) fails to address or respond to Appellant's position that the prior art does not teach or suggest determining "*a priority level at which sufficient allowances are available*" for the prioritized plurality of actions. Rather, the Examiner provides extensive arguments on why "designated allowances" is obvious based on the hindsight of Appellant's specification (see Examiner's Answer page 22, lines 10-18) and admonishing Appellant for failing to consider the teachings of *Raymond* and *Trudeau* collectively, notwithstanding that the Examiner has explicitly admitted that *Raymond* fails to disclose the argued elements (Examiner's Answer page 6).

As we have previously explained in our Appeal Brief (page 5), Appellants are unable to discern from the Examiner's rejection (Answer, page 7) how any of these teachings suggest determining "*a priority level in which sufficient allowances are available for each of said plurality of actions.*" The Examiner Answer responds to Appellant's arguments by merely continuing to cite columns 5, 6 and 7 of *Trudeau* as suggesting the above cited element without specifically responding to Appellants' arguments that such description fails to provide any such suggestion of the recited element of exemplary claim 1. *Trudeau* teaches at col. 5 a computer system for evaluating a level of stress of an individual and providing a strategy of action based on the evaluation. At col. 6, *Trudeau* teaches that the user can selectively interact with recovery tools. At the cited section of col. 7, *Trudeau* teaches that the system modifies a program to activate certain operative principles to generate certain results for the user. The Examiner has failed to offer any explanation or response to Appellant's argument that *Trudeau* teaches otherwise or how such teaching suggests the above element of the present invention.

CONCLUSION

The Examiner's Answer and rebuttal arguments do not support maintaining the rejections of Appellant's claims. Appellants have pointed out just some of the significant deficiencies contained in the Examiner's Answer and rebuttal arguments. For the reasons set forth herein and those set forth in the Appeal Brief, Appellants urge the Board to reverse the Examiner's rejection of the claims and remand the case to the Examiner with instructions to issue a Notice of Allowance for all pending claims in the present application.

Respectfully submitted,

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